

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.2025/2014

New Delhi this the 22nd day of September, 2015

Hon'ble Shri A.K. Bhardwaj, Member (J)

Jalmegh Kumar,
S/o Late Smt.Hoshyari Devi,
R/o Vill. Kapasi, Post Manota,
Distt. J.P.Nagar (Amroha),
Uttar Pradesh. ... Applicant

(By Advocate Shri Yogesh Sharma)

VERSUS

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Moradabad Division,
Moradabad. .. Respondents

(By Advocate Shri Satpal Singh)

ORDER

The facts of the case set out in the OA are that the husband of late Smt. Hoshyari Devi, namely Shri Hargyan Singh employed as Sweeper in the office of Chief Health Inspector, Moradabad Division (NR) died in harness. Subsequently Smt. Hoshyari Devi, i.e. widow of late Shri Hargyan Singh who was given compassionate employment on account of death of her husband in harness also passed away on 10.11.2007, leaving behind five daughters. Nevertheless, it is the case of applicant that he was adopted by Smt. Hoshyari Devi in the year 2006 and being her adopted son is entitled to

employment on compassionate ground. The respondents nixed his claim on the ground that the adoption deed was invalid.

2. I heard counsels for parties and perused the record. May be in terms of RBE No. 106/1988, the adopted sons/daughters of a railway employee are eligible for being considered for employment on compassionate ground. Nevertheless in the instructions itself it has been provided that there should be satisfactory proof of adoption being legally valid before the date of death of the deceased servant. The letter reads thus:-

**Sub: Appointment of adopted sons/daughters
on compassionate grounds.**

No. E (NG)II/86/RC-1/1/Policy,
dated 20.5.1998

In terms of para II of instructions contained in Para II of Board's letter No.E(NG) III/78/RC-1/1 dated 7.4.1983, son/daughter/widow/widower of the employees are eligible to be appointed on compassionate grounds in the circumstances in which such appointments are permissible.

2. A question has been raised whether adopted sons/daughters are eligible to be considered for compassionate appointment. The matter has been considered and the Board have decided that an adopted son/adopted daughter will also be eligible to be considered for appointment on compassionate grounds (in circumstances in which such compassionate appointment is permissible) in case all the following conditions are satisfied:-

- (i) There is satisfactory proof of adoption valid legally;
- (ii) The adoption is legally recognized under the personal law governing the railway servant;
- (iii) The legal adoption process has been completed and has becomes valid before the date of death/medical decategorisation /medical incapacitation(as the case may be) of the ex-employee.

3. For example, it may be noted that under Section II of Hindu Adoption and Maintenance Act, adoption can be made only if the adopted father or mother by whom the adoption is made does not have a Hindu son or daughter, whether by legitimate blood relationship or by adoption living at the time of adoption.

4. Past cases dealt with otherwise need not be reopened.”

The doubt expressed by the respondents regarding validity of the adoption deed is not baseless for the simple reason that initially after the death of Smt. Hoshyari Devi, her daughter namely Ms. Renena Devi had applied for compassionate appointment and only when her certificate were found false, the applicant herein espoused himself as adopted son by Smt. Hoshyari Devi and claimed compassionate appointment. As claimed by him if the applicant was adopted by Smt. Hoshyari Devi, in the year 2006, after her death on 10.11.2007, he could have espoused his claim for compassionate appointment ahead of Ms Reena Devi. Besides, the respondents could find that in his high school and intermediate certificate issued in the year 2006-08 the name of mother of the applicant was mentioned as Smt. Rajo Devi. In the wake, the respondents are not unjustified in treating the adoption of the applicant as not legally valid. Besides, it is stare decisis that a legal heir cannot put forth his claim for compassionate appointment as if it line of succession by virtue of a right of inheritance as the object of provision for

compassionate appointment is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member.

3. In **Haryana State Electricity Board & Anr. Vs. Hakim Singh** (AISLG 1999 (1)114), Hon'ble Supreme Court ruled:-

“that if the family members of the deceased employee could manage for fourteen years after his death one of his legal heirs cannot put forward a claim as it is a line of succession by virtue of a right of inheritance as the object of provision for compassionate appointment should not be forgotten that it is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member. In the said case, Hon'ble Supreme Court further ruled that compassionate appointment is not another mode of recruitment of the dependent of the deceased Government servant dehors the recruitment rules. Paras 11,12 and 13 of said judgment read as under:-

“11. We are of the view that the High Court has erred in over stretching the scope of the compassionate relief provided by the Board in the circulars as above. It appears that High Court would have treated the provision as a lien created by the Board for a dependent of the deceased employee. If the family members of the deceased employee can manage for fourteen years after his death one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance. The object of the provisions should not be forgotten that it is to give succour to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member.

12. This Court has considered the scope of the aforesaid circulars in *Haryana State Electricity Board v. Naresh Tanwar and Anr. Etc.etc.*, 1996 (2) JT 542.

13. In that case widow of a deceased employee made an application almost twelve years after

the death of her husband requesting for accommodating her son in the employment of the Board, but it was rejected by the Board. When she moved the High Court the Board was directed to appoint him on compassionate grounds. This Court upset the said directions of the High Court following two earlier decisions rendered by this Court, one in Umesh Kumar Nagpal v. State of Haryana & Ors, 1994 (4) SCC 138, the other in Jagdish Prasad v. State of Bihar & Anr., (1996 (1) SCC 301. In the former, a Bench of two Judges has pointed out that “the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for the post held by the deceased.” In the latter decision, which also was rendered by a Bench of two Judges, it was observed that “the very object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.” The learned Judges pointed out that if the claim of the dependent which was preferred long after the death of the deceased employee is to be countenanced it would amount to another mode of recruitment of the dependent of the deceased Government servant “which cannot be encouraged, de hors the recruitment rules.”

4. In view of the aforementioned, the claim of the applicant for employment on compassionate ground is rejected. Nevertheless since the deceased Govt. servant left behind five daughters, the respondents may consider the claim of one of them for giving compassionate appointment in accordance with the rules and instructions. OA stands disposed of. No cost.

(A.K.Bhardwaj)
Member (J)

